

## **REMARKS**

### ***Pending claims***

Claim 2 has been canceled. Claim 1 has been amended to more clearly point out and distinctly claim the invention. Six (6) claims (claims 1, 3-4, and 7-9) remain pending in this application through this Amendment.

### ***Claim objection and Rejection under 35 USC §112***

Rejection under 35 USC §112, second paragraph, and objection of claims 1-4 and 7-9 have been overcome by the amendment of claim 1.

### ***Claim Rejection under 35 USC §102***

Claims 1-4 and 7-9 were rejected under 35 U.S.C 102 (b) as being anticipated by Müller (US Pat. No. 6,303,687). This rejection over claim 2 is moot in view of the cancellation of this claim. For the following reasons, the Examiner's rejection over claims 1, 3-4, and 7-9 is respectfully traversed.

Applicants respectfully submit that the present invention as currently claimed is not anticipated by Müller, because Müller alone *does not* disclose all of the claimed elements. At least, Müller does not disclose all of the claimed elements arranged as in the claims. The single source must disclose all of the claimed elements "arranged as in the claim."

*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *Connell v. Sears Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983).

Müller does not disclose nor suggest anything about a modifier (1) which is different from but miscible with the water-soluble polyvinyl alcohol and presented in the polymerizable material in an amount sufficient to improve one or more physical properties of the ophthalmic device made from the polymerizable material; (2) which is a copolymer which is a copolymerization product of a mixture comprising at least one hydrophilic vinylic monomer and at least one hydrophobic vinylic monomer. It is true that Müller discloses hydrophilic and hydrophobic comonomers. But, what Müller discloses is hydrophilic comonomers and hydrophobic comonomers as a modifier in a polymerizable material for making ophthalmic devices. A hydrophilic monomer or a hydrophobic monomer **is not** a copolymer. Applicants' invention does not claim hydrophilic and/or hydrophobic monomers as a modifier in a polymerizable material for making ophthalmic devices. Applicants claims, *inter alia*, a

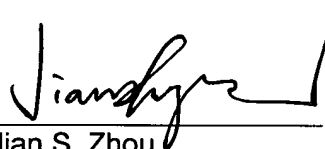
copolymer which is different from the polyvinyl alcohol and is a **polymerization product** of a mixture comprising at least one hydrophilic monomer and at least one hydrophobic monomer. In contrast, Müller does not disclose anything about a modifier being a copolymer as defined by the invention. Nor does Müller disclose all of the claimed elements (e.g., a copolymer, a polymerization product, and at least one hydrophilic monomer, at least one hydrophobic monomer) "arranged as in the claims." Therefore, Applicants respectfully submit that Claims 1, 3-4, and 7-9 are not anticipated by this reference and respectfully request withdrawal of this rejection.

### **CONCLUSION**

In view of the foregoing and in conclusion, Applicants submit that the pending claims are now in conditions for allowance. Applicants request reconsideration and withdrawal of the rejections set-forth in the Office Action. Applicants further request consideration of claims 5-6 and 10-15 to additional species which are written in dependent form, the generic claims upon which they depend are allowable.

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. Please address all correspondence to Robert Gorman, CIBA Vision, Patent Department, 11460 Johns Creek Parkway, Duluth, GA 30097. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §§1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-2965.

Respectfully submitted,



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